IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 30TH NOVEMBER 2007 / 9TH AGRAHAYANA 1929

WP(C).No. 23958 of 2007(B)

PETITIONER:

TRICHUR DISTRICT CO-OPERATIVE HOSPITAL
LIMITED NO.R-306, SHORNUR ROAD,
TRICHUR, REPRESENTED BY THE PRESIDENT,
T.K.PORINCHU.

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENTS:

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1. THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES(G), TRICHUR.

2. SMT. K.K.RUGMINI,
KUDAKKATTUPARAMBIL HOUSE, KALLIPPADI P.O.,
MULANKUNNATHUKAVU, TRICHUR DISTRICT.

BY ADV. SMT.DAISY A.PHILIPOSE for R2
GOVERNMENT PLEADER, SRI.P.K.RAVIKRISHNAN FOR R1

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 23958 of 2007(B)

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF THE ORDER NO. CRB.5959/2006 DATED 2/8/2007

EXT.P2 TRUE COPY OF THE SUSPENSION ORDER NO.T.D.C.H.(219)2006-07 DATED 04/10/2006

EXT.P3: TRUE COPY OF THE MEMO CHARGES GIVEN TO THE 2ND RESPONDENT DATED 14/11/2006.

EXT.P4 TRUE COPY OF THE REPLY GIVEN BY THE 2ND RESPONDENT DATED 14/11/2006

EXT.P5 TRUE COPY OF THE COMMUNICATION DATED 29/11/2006 INTIMATING THE APPOINTMENT OF THE ENQUIRY OFFICER.

EXT.P6 TRUE COPY OF THE COMMUNICATION DATED 06/12/2006.

EXT.P7 TRUE COPY OF THE ORDER DATED 25/1/2007

\\TRUE COPY//

THOTTATHIL B. RADHAKRISHNAN, J.

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W.P.(C) No. 23958 of 2007-B

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Dated this the 30th day of November, 2007

J U D G M E N T

The second respondent was dismissed from the service of the writ petitioner on 25/01/2007. She challenged that decision invoking Rule 176 of the Kerala Co-operative Societies Rules. That has been allowed as per the impugned Ext.P1 order.

2. In terms of the amendment to Section 69 of the Kerala Co-operative Societies Act, as per Act 1 of 2000, disciplinary proceedings are matters which fall within the domain of that provision, thereby excluding proceedings under Rule 176 of the K.C.S Rules. This has been so laid down by this Court in **Prakasini v. Joint Registrar [2006 (1) KLT 199]** and **Raveendran v. State of Kerala [2007 (3) ILR (KER) 241]**

& [2007 (3) KLT 558]. Hence, the impugned Ext.P1 proceedings would not stand.

3. However, the learned counsel for the second respondent attempted to point out that the petitioner cannot be an institution that would fall within the purview of the provision. The argument is that the petitioner is not a classified society in terms of Act and Rules. As rightly pointed out by the learned counsel for the petitioner, classification of societies in terms of Section 80(1) of the Act has been appropriately done in terms of Rule 182 and Appendix III to the K.C.S. Rules, which includes Hospital Co-operative Societies of different grades. Therefore, the objection raised by the second respondent on this count does not stand.

In the result, the impugned Ext.P1 is set aside. The second respondent will be at liberty to move the appropriate authority for adjudication, in terms of Section 69 of the Act,

and the said authority will consider that application, ignoring any delay in initiating such proceedings and also expedite the final disposal, having regard to the fact that the petitioner was placed under suspension on 04/10/2006 before her dismissal as noticed above. The writ petition is disposed of as above.

Sd/-

THOTTATHIL B. RADHAKRISHNAN,
Judge

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